

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BENJAMIN F. STANLEY,	:	MOTION TO VACATE
Movant,	:	28 U.S.C. § 2255
	:	
v.	:	CRIMINAL INDICTMENT NO.
	:	1:09-CR-0406-TCB-JFK-2
UNITED STATES OF AMERICA,	:	
Respondent.	:	CIVIL FILE NO.
	:	1:15-CV-0060-TCB-JFK

**UNITED STATES MAGISTRATE JUDGE'S
FINAL REPORT AND RECOMMENDATION**

The matter is before the Court on submission of the Court's July 7, 2015, Order to show cause [366] why this action should not be dismissed based on Movant's failure to obey the Court's May 14, 2015, Order requiring him to amend [364].

In the May 14, 2015, Order, the Court advised Movant that failure to comply with the Court's directive to amend could result in the dismissal of the action. (Order at 3, May 14, 2015, ECF No. 364). When Movant did not respond, the Court ordered him to show cause within twenty days why his § 2255 motion should not be dismissed for failure to obey a lawful court order. (Order, July 7, 2015, ECF No. 366).¹ That time period expired, and on August 4, 2015, the matter again was submitted to the

¹In each Order, the Court noted that under § 2255(f)(1), the federal one-year limitations period expired for Movant on August 4, 2015. (Order at 2 n.1, May 14, 2015; Order at 1 n.1, July 7, 2015).


Court. Out of an abundance of caution, the Court has allowed Movant additional time in which to respond. However, as of August 25, 2015, the records of the Clerk of Court indicate that Movant has not attempted to amend or otherwise respond to the Court.

Based on the above discussion,

IT IS RECOMMENDED that this action be **DISMISSED WITHOUT PREJUDICE**, due to Petitioner's failure to comply with a lawful order of the Court. See LR 41.3 A.(2), NDGa.; see also Heard v. Nix, 170 F. App'x 618, 619 (11th Cir. Feb. 23, 2006) (affirming dismissal under Rule 41.3 and Federal Rule of Civil Procedure 41(b) for failure to comply with district court's order).

The Clerk is **DIRECTED** to terminate the referral of the 28 U.S.C. § 2255 motion to the undersigned.

IT IS SO RECOMMENDED and DIRECTED, this 26th day of August, 2015.



JANET F. KING
UNITED STATES MAGISTRATE JUDGE